

# Justicia

## **Keeping SCORE: JPC Adds Up Its Assets and Forecasts the Future**

-by Mary Boite

Judicial Process Commission Board members, along with Coordinator Sue Porter, spent a productive work day on Saturday, January 31st, taking an honest and hard look at our SWOT - Strengths, Weaknesses, Opportunities and Threats. We discovered that many of our strengths, which included a great reputation in the progressive community, loyal donor base, very happy and satisfied clients, wonderful new space in which to work and longevity as an organization, also proved to be opportunities and (sometimes) weaknesses.

Renewal is difficult for any group, but can also be an invigorating process to keep us moving in a positive direction. The Board of Directors has been looking at the many challenges we face in trying to help the increasing number of ex-offenders, probationers and others looking for our support. We decided that it might be useful to take

advantage of the expertise offered by SCORE, an organization that has worked with several other area not-for-profits, with excellent results.

SCORE calls itself "Counselors to America's Small Business", and their roster of volunteer counselors guides organizations/businesses through the process of refining their vision and mission, developing a strategic plan, and focusing on results that make that mission a reality. Counselors offer one-on-one, email, telephone and even SMART Team counseling for more complex issues.

The planning day was encouraging but sobering. The encouragement came from the deep commitment of every single person present to continuing the vision of the founders of JPC and to ensuring that the work of this "jewel of an organization" goes forward to meet the needs of a growing and underserved population. We reaffirmed our collective belief in our work, but that was the easy part! The Board worked hard to clarify our mission statement, to better articulate our values and the work that we have been doing for over 35 years. We then proceeded start developing a strategic plan to carry us forward - starting now!

As you will read elsewhere in this issue of *Justicia*, the sobering truth is that while the numbers of people coming through our doors has

more than doubled in 2008 (to 1,098!), the money we have raised has not. The new space we needed and worked so hard to find has allowed us to see all those people, but the monthly rent has really strained our budget. We will be redoubling our efforts to broaden our giving public as well as to persuade our current givers to make Judicial Process Commission their No. 1 priority in these tough times. We need both financial and human resources. The people with whom we work are at the bottom of the heap in better times - now they are often completely overlooked.

Your Board and Staff are working hard to ensure that we never have to turn away anyone who needs our help and support to lead a life that is productive and healthy, a life where they can stay out of jail, help support a family, and be a positive influence in their community. We will be continuing to work with SCORE to sharpen our focus, improve our funding base, and give our all to this community. We will also continue to update you through *Justicia*.

Thanks to Board member Sister Mary Sullivan and other members of her community at the Sisters of Mercy Motherhouse in Rochester, the day was spent in comfortable surroundings with good food for lunch, as well as lots of focus-sharpening coffee!

*"Mission Renewed" - All Things Are Possible*

**Vision:** *The Judicial Process Commission envisions a society with true justice and equality for all. We understand that in a just society, all institutions will be based on reconciliation and restoration, instead of retribution and violence.*

**Mission:** *The Judicial Process Commission is a grassroots non-profit organization that works to create a just, nonviolent community. We support the rights of all people affected by the criminal justice system and promote changes to that system that help them achieve their fullest potential. We do this by providing support services, educating the public and advocating for systemic change.*

(rev. January 31, 2009)



*JPC Board members, including Bob Zinnicker, SCORE facilitator extraordinaire (back right).*

## Stamp Out Recidivism – One Postage Stamp at a Time!

Our total postage budget is \$4,500, excluding the mailing cost of *Justicia*. That's a lot of letters, documents and postcards!

Staff at The Judicial Process Commission read and responded to **over 600 letters** last year from prisoners seeking information about civil rights violations and brutality in prison; health and medical care in prison; legal issues; how to make the transition into society – housing, getting their ID back, Social Security help, employment; educational information, and many other issues. They know that the time and the help they provide can make the difference to that person's safety and wellbeing in prison, and having a smoother transition into society when they are released.

Where does the money go?

Letters from prisoners and parolees (600) generate:

- ◆ A reply (\$0.42 each)
- ◆ Letters to the appropriate government department or agency dealing with the request
- ◆ Documents (information, copies of documents etc.) (\$1.00 each)

Walk-in clients often need to obtain help in getting RAP Sheets (state and federal) cleaned up, applying for Certificates of Good Conduct or Certificates of Relief. Those are complex issues, requiring more time and more mailings than a simple request for information. From 2006 through the beginning of this year, staff worked with clients to go through the process necessary to obtain a

total of

- ◆ 1,750 Records

***Can You Help Stamp Out Recidivism by sending us postage stamps, or the money to buy them*** (please mark “for stamps” clearly on the memo line of your checks) ***whenever you can?***

The clients are very grateful for all the help they receive from us and from you.

## ***Handbook of Restorative Justice: A Global Perspective***

Ed. by D. Sullivan and L. Tiff

A Review by Joel Freedman

In the November 15, 1982, issue of *Newsweek*, Indiana prisoner Marcus Koechig wrote that he had never been asked to return the \$1,444 he stole from his robbery victim. The victim's tax dollars helped pay for Koechig's trial and defense, his upkeep in prison, and would be part of the public assistance given to Koechig in the event he did not find immediate employment when released.

Koechig wrote: “The average thief in here is ‘rehabilitated’ by performing janitorial duties of 30 minutes a day – rehabilitation begins and ends with the convict adjusting to the prison routine, an eerie, Pavlovian system of bells, whistles and gross depersonalization of the individual.”

How can an offender pay his “debt to society”? Koechig proposed mandatory restitution, even if it would be administered in a penal setting. “Forcing him to restore to his victim what he took in the first place has the potential of instilling in him not only respect for the property of others but also some shred of self-respect. He would learn that there is no free lunch when it comes to paying his debt.” Restitution is part of rehabilitation because it provides the offender a chance to make amends. It considers the needs of victims. Punishment is reinforced because offenders must “pay” for their wrongdoing. The overall interests of justice are strengthened.

Restitution can and should also include free labor to assist victims and various kinds of community service, ranging from volunteer work for a charitable organization to inmate participation in juvenile awareness programs – in which inmates try to educate juvenile offenders to the realities of prison life and to deter them from lives of crime.

Restorative justice includes restitution to victims and/or to the community. Restorative justice also involves “talking things out” encounters between offenders and victims or victims' families, attempting to bring serenity into the lives of everyone involved, and recognizing, as Dennis Sullivan and Larry Tiff point out, that “no one of us can be harmed or traumatized without all of us suffering and no one of us can prosper without all of us gaining in our common identity and well-being.”

When Koechig's article was published, modern forms and contexts of restorative justice were rarely practiced in our criminal justice system. Prior to the 21<sup>st</sup> century, the authors tell us, “Very little was taught about restorative justice in colleges and universities everywhere but especially in the United States. You could have randomly polled a hundred students in any given criminology or criminal justice program in the U.S. regarding the principles and practices of restorative justice and, on a good day, you might have found one person who had an inkling of what they were.” Students majoring in criminology, criminal justice, or penology – in which learning objectives focused upon understanding crime causation and the best ways of making things right after crimes had been committed – “all but walled themselves off from examining community-based responses to crime and harm that were of a restorative nature.”

Nowadays, however, a growing number of criminology and criminal justice programs offer courses on restorative justice. To enhance the quality of learning in such classes, I would recommend *Handbook of Restorative Justice* be used as a textbook. Here is a collection of 38 scholarly essays, written by victim advocates, prisoner advocates, criminologists, psychologists, restorative justice facilitators and trainers, sociologists, social justice activists, theologians, social workers, law professors and practicing attorneys, that offer thought-provoking insights into how restorative justice is practiced around the globe. The *Handbook* was voted outstanding academic book of 2007 by Choice. The essays therein and the commentaries by Sullivan and Tiff offer much for discussion. One of the greatest virtues of the *Handbook* is the variety of topics: from “Restoring Justice Through Forgiveness: The Case of Children in Northern Ireland” to “Truth and Reconciliation in Serbia,” from “The African Concept of Ubuntu and Restorative Justice” to

“Spiritual Foundations of Restorative Justice,’ from “The other victims: The Families of Those Punished by the State” to “Hearing the victim’s voice amidst the cry for capital punishment.”

The latter essay was written by James Acker, Professor at the School of Criminal Justice, State University of New York at Albany, and a co-editor of *America’s Experiment with Capital Punishment* (2003). Critically examining the justification for capital punishment offered in the name of murder victims and their survivors, Acker concludes that “the prospect of achieving full closure for co-victims is of course illusory, since nothing can expunge or reverse a loved one’s murder... Because its ultimate objective is the offender’s execution, the death penalty is difficult if not impossible to square with principles of restorative justice. Although retribution is not inherently incompatible with models of restorative justice, capital punishment takes retribution to an extreme. It preempts any possibility of the offender’s reintegration into the community. It inflicts unmitigated pain. Its unequivocal rejection of the offender essentially disavows any societal responsibility for harmful conditions that may have helped spawn the criminal behavior.”

Although once rare, at least fifteen states now sponsor or are developing programs encompassing personal encounters between offenders and violent crime victims. Such victim-offender mediation sessions have sometimes included death row encounters between murder victims’ survivors and offenders who are awaiting execution. “Interventions based on restorative justice, including defense-based victim outreach, healing circles that include offenders’ families, and even mediated victim-offender dialogues need not be foreign to the capital punishment process.” Acker adds that “many co-victims feel betrayed and re-victimized by a system of criminal justice that would purposefully compound the tragedy of one senseless killing with another. These survivors reject the extreme retributivism of capital punishment, finding such a philosophy irreconcilable with their own values or those of their deceased loved ones.”

One example of the criminal justice system excluding co-victims opposed to capital punishment occurred in Nebraska, where Randy Reeves awaited execution for the murder of Victoria Zessin. At a clemency hearing held shortly before the scheduled execution, the Pardons Board

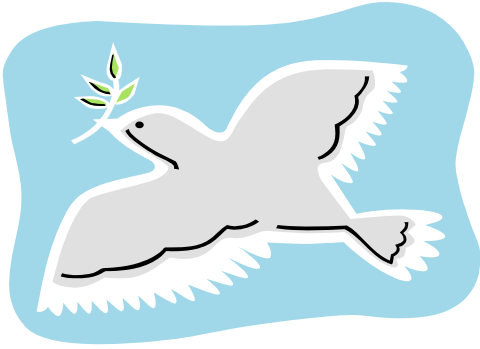
considered a statement by the victim’s sister that urged that the death penalty be carried out, but refused to receive statements from the victim’s husband and daughter, who wanted the death sentence converted to life imprisonment. (The courts upheld the Pardon Board’s exclusion of the husband and daughter, although the Nebraska Supreme Court eventually re-sentenced Reeves to life imprisonment. Rachel King’s book, *Don’t Kill in Our Names: Families of Murder Victims Speak Out Against the Death Penalty*, which I reviewed for *Justicia* five years ago, is an excellent portrait of families of murder victims who oppose the death penalty.)

Acker’s essay along with the other guest essays and the commentaries provided by the editors, provide a scholarly, provocative and comprehensive study of all aspects of restorative justice in the US and throughout the world, a world that Sullivan and Tifft hope will become “easier for all of us to be good, to be kind and compassionate, to be more welcoming of others.”

I was particularly pleased that an essay by Professor Edward J. Martin, “Environmental policy and management in Costa Rica: Sustainable Development and Deliberative Democracy,” is included in this book. Here is an important reminder that restorative justice must include rectifying neglect of environmental concerns and replacing such neglect with responsible national policies that take seriously the threat of global warming and other environmental hazards and that require careful management of human interaction with both animal and plant life. There is a definite need for more holistic and progressive responses to the problems that plague our planet.

Restorative justice does not have all the answers – some of the writers acknowledge that restorative justice is not a cure-all, and not necessarily appropriate for all victims or offenders. Furthermore, restorative justice advocates, particularly in the criminal justice system, recognize that proper punishment, including sentences of up to life imprisonment in some cases, are justified and are an important part of the healing and vindication process for victims. But, at the very least, dealing with the most difficult of society’s problems requires that restorative justice be an integral part of the world we live in.

(*Handbook of Restorative Justice: A Global Perspective* is published by Routledge, New York. 2008. 574 pages. \$48.95. ISBN 1:0-415-447240.)



## Justice Tempered With Mercy

By Joel Freedman

Nick Montos, age 92, an inmate at the Massachusetts Correctional Institution (Norfolk), is the that state's oldest prisoner. Montos has been incarcerated in the state for over 13 years. [See note at end – Ed.] Convicted of two separate robberies, he would have to reach age 132 to complete his sentences.

Montos has undergone triple by-pass surgery. He has cancer. He depends on a cane and the assistance of other prisoners to walk. Montos' fellow inmates are assisting him in other ways, too. They are reaching out to Massachusetts citizens to circulate petitions to the Massachusetts State Parole Board Advisory Board of Pardons. The petition urges that Montos, "who, obviously, because of his advanced age and very poor medical condition will pose no threat whatsoever to public safety, be afforded a special parole or commutation consideration so that he can be released under supervised parole conditions to live out the remainder of his short life expectancy with his sister in the state of Florida."

The inmate committee advocating on Montos' behalf wants the public to realize that his "life of crime is over and done with. He is simply a 92 year old man who is very ill, who is seeking compassion, forgiveness, and mercy."

In a flyer prepared by the inmate committee, the point is also made that Massachusetts taxpayers spend about \$43,000 yearly to incarcerate each healthy prisoner, but that it costs the taxpayers up to \$100,000 annually to incarcerate Montos, in view of his medical issues. He is one of 92 prisoners in Massachusetts who

are over the age of 70. Less expensive alternatives to incarceration for elderly prisoners could include release under supervised parole conditions, 24-hour electronic or GPS monitoring, and supervised home confinement, the committee suggests. The prisoners' group – The Committee For Justice And Compassion For Elderly Offenders – presently is focusing their energies on Montos' situation. "This is such a worthwhile project," Norfolk inmate Timothy Muise wrote to *Justicia*.

Massachusetts is not included in the list of 36 states that have established programs that allow the release of terminally ill or severely infirm prisoners. The driving force behind such medical furloughs or humanitarian paroles is the expensive cost of institutional medical care, according to Ron McCuan, a public health analyst with the National Institute of Corrections.

Alabama's compassionate release law went into effect last September. Alabama's policy is similar to the policies of 35 other states. Alabama Corrections Commissioner Richard Allen said that only "the frailest of the frail and sickest of the sick" will be considered for early parole. Prisoners convicted of capital offenses and most sex crimes are ineligible for consideration. About 125 of Alabama's 25,000 state prison inmates will be eligible. Alabama taxpayers currently spend an average of \$60,000 to \$65,000 per year for each of the eligible inmates. If released, these prisoners would live with relatives or be placed in hospice care or treated in community hospitals.

A medical parole program was launched in Oklahoma nine years ago. According to Bob Mann, director of social work services for Oklahoma's prison system, about 135 inmates have been released since the onset of the program. Mann told *USA Today* that there have been only "one or two inmates" who returned to prison from medical parole status. "Those were offenders of lesser crimes. If I recall, they got involved in drugs once they were released...Most of the inmates are sent home to die."

Burl Cain, Warden of the Louisiana State Prison in Angola and a proponent of Louisiana's medical release law, believes that prison should not be a place for "dying old men".

Hopefully, Massachusetts and the 13 other states that do not have compassionate release laws will follow the examples of the states that have already enacted such laws.

*(Note: Any such laws in Massachusetts will*

come too late for Nick Montos.: As this article goes to press, we have learned of his recent death. Just prior to his death, his fellow inmates filed a commutation package with the governor of Massachusetts after the parole board denied the petition filed on his behalf.)

## Three JPCers Complete Brick Laying Training

By Alex Alicea and Sue Porter

Rochester Mayor Robert Duffy's new initiative to aid unemployed workers, called PRIME, has trained its first ever class of bricklayers/masons. At 6:30 AM once recent day on Monroe Avenue in Pittsford, Daniel Palazzo, Rochester Training Coordinator for the Bricklayers and Allied Craftworkers, Local No. 3 New York, met the earliest apprentices so that no one was left out in the cold before class began at 7:30 AM. Dan effectively led the training efforts which included three instructors and 35 apprentices.

Keenan Allen, Employment Opportunity Director, PRIME, City of Rochester, partnered with the Local 3 Brick Layers to identify new apprentices. Allen screened, tested, interviewed and selected 50 people for the training.

Experienced teachers Bradley Wilson and Arthur Miller took the time to show every one the hands-on basic craft work. Fireproofing/corking of rooms was taught by Michael Markowski. OSHA training took place and included 10 hours of instruction about: chemicals, use of safety harnesses and signage notifying people of dangerous work areas.

Approximately 35 men and women are ready to lay bricks and blocks, concrete floors and plaster work. Alex Alicea, a JPC participant, has been welcomed into the Bricklayers and Allied Craft Workers Local No 3 and feels the experience well worth the hard work.

Alex has new skills that can never be taken from him and is inspired to move forward with a new career. He is looking forward to further training in Washington DC after he completes the next 12 months of work as a brick and block laborer in the field with craftworkers doing tile, marble and terrazzo finishing.



*Hard at work in the training program.*

### **The JUDICIAL PROCESS COMMISSION**

285 Ormond Street  
Rochester, NY 14605  
585-325-7727; email: [info@rocjpc.org](mailto:info@rocjpc.org)  
website: [www.rocjpc.org](http://www.rocjpc.org)  
*We welcome your letters and *Justicia* article submissions by e-mail or postal mail.*

#### **VISION**

The Judicial Process Commission envisions a society with true justice and equality for all. We understand that in a just society, all institutions will be based on reconciliation and restoration, instead of retribution and violence.

#### **MISSION**

The Judicial Process Commission is a grassroots non-profit organization that works to create a just, nonviolent community. We support the rights of all people affected by the criminal justice system and promote changes to that system that help them achieve their fullest potential. We do this by providing support services, educating the public and advocating for systemic change.

#### **Board Members**

Mary Boite, Vice-chairperson  
Jack Bradigan Spula, Editor, *Justicia*  
Laurie Hamlin, Treasurer  
Shermond Johnson  
Gail Mott, Secretary  
John Mourning  
Harry Murray  
Clare Regan (1927-2006), Editor emerita, *Justicia*  
Louise Wu Richards  
Fred Schaeffer, Chairperson  
Suzanne Schnittman  
Mary Sullivan  
Yolanda Wade, Esq.  
Valerie White-Whittick

#### **Staff**

Mavis Egan, Client Navigator/Project Evaluator  
Hasana Martin, AmeriCorps Worker  
Susan K. Porter, Coordinator  
Kamilah Richardson, Case Manager

## ***Highlighting You - Our Generous Donors of 2008***

The Judicial Process Commission has once again the privilege of publicly thanking all of you whose financial support makes it possible for us to do our work. Although the Board and Staff are acknowledging your generosity today, please know that it is the people we serve, who come through our doors every day, who are the most grateful. For those who've been in prison or jails, who are on parole or on probation and looking desperately for a way to turn their lives around, the tough times are not just during this recession, they are every day. The crisis we all are facing on a local, national and worldwide level, just makes it that much harder for those at the bottom part of the heap.

We are fortunate to have all of you; we know you cannot give every time we ask, but many of you give many times during the year and also give clothes, or kitchen items, books and other items needed by our customers. Thank you, and please share the word with friends and neighbors who might be interested in JPC!

--- Mary Boite, Chair, Fundraising Committee

Ann Adams  
Jim Ahearn  
Kathleen Albertini  
Betty Allinger  
Marilyn Anderson & Jon Garlock  
Irene Ashford  
Carrie Andrews  
Lieve Bain  
Lynn Bakeman  
William Barker  
Brian Barry  
Jean Bartlett  
Sara Baughan & Lou Prieto  
Melissa Bechoefer  
Donald Beech  
Malcolm Bell  
Mike Bleeg  
Erna Bowman  
Paul Brayer  
Minna Buck  
William Buckingham  
Bill Burks  
Carol Burritt  
Esther & Sydney Cable  
Susan Cable  
Sandra Cain  
Catherine Callery  
Robert S. Campbell  
Victoria Campbell  
Maria Casapini  
Rome Celli  
William Clauss  
Sarah Collins  
Margaret Corbin  
Carol Crossed  
Johanna Cummings  
Cylinder Services, Inc.  
Rudy Cypser  
Lois & Bill Davis  
Peter O'Brian Dellinger  
Jean Wilkins Dember  
Barbara Deming  
Francis DiProsa  
Wanda Dodds  
Ken & Sally Dodgson  
Tim Donaher  
Dorothy Donaldson  
Frank Dunbraugh  
Beverly Ellingwood

John Erb  
David Fergusson  
John Ferlicca  
Dorothy Fisher  
Scott Fisher  
Stephen Fisher  
Richard Fitts  
Donald Forsyth  
Scott Forsyth  
Marjorie Forth  
Sandra Frankel  
Joel Freedman  
Sheira Freedman  
Bonnie Freeman  
Richard Frey  
Marie Gibson  
James Gocker  
Andra Goldsby  
Judith Goldstein  
Amy Gravitz  
Martin & Marie Greenwald  
Robert & Roberta Grimm  
David Grodsky  
Darrell Gunn  
Samuel Halaby, Jr.  
Judith Halley  
Thomas Hampson  
Paul Haney  
Lawrence Hargrave  
Katherine Heiningner  
H. Robert Herman  
Hildegard Herz  
Neil Hirsch  
Olive Hoffman  
Jeanne Hoge  
Jean Howland  
Nobuko Ichishita  
Steven Jarose  
Edward Johnson  
Robert Johnson  
Danny Leon Jones  
Tracy Jones  
Mitchell Kaidy  
Peter Kane  
Ann & Harold Kanthor  
John Keevert  
Ellen Kimbrough  
Carol Kitchen & Shelley Cochran  
Lacy Katzen

Susan Klassen  
John Klofas  
Joan Kohout  
Margaret Kress  
Katherine Lawrence  
David Leven  
Harry Lloyd  
Dorothy Lonsky  
Jacqueline Beris Lonsky  
Richard Lourette  
Craig Mackey  
Tim O. Mains  
Michael Massurin  
Margaret Matlin  
Bill McCoy  
Dorothy McEvoy  
Kristen McGuire  
Helvi McLelland  
Kit McNally  
Carmel Merrill  
Caroline Micklem  
Luther Miller  
Nina Miller  
Martin Minemier  
Peter Mitchell  
Peter & Gail Mott  
Marilyn Mould  
Charles Mulligan  
David Murphy  
Raymond Nelson  
Robert C. Newman  
William Nolan  
Ed Nowak  
Sr. Dolores O'Dowd  
Diane Sarah Ostrander  
Joyce Patridge  
Peter Peters  
Benjamin Phelosof  
Mark Phillips  
Thelma & William Pierce  
David Pittinaro  
Caroline Poland  
Nancy Porter  
Susan K. Porter & Bob Conklin  
Judith Prevatil  
Gary Pudup  
Valentin Rabe  
David & Meg Regan  
Laurie Regan  
Rebecca Regan  
Richard & Susan Regen  
Babs Reimensnyder  
Karen Reixach  
James Renfrew  
Lucille Rice  
Carlos & Mary Terry Rodriguez  
Deborah Ronnen  
Richard Rosen  
George Rossman  
Peg & Bill Rubley  
Margaret & Walter Hammele Ruehle  
Patricia Rumbold

Philip Schaefer  
Aaron Schaeffer  
Fred Schaeffer  
Francita Schermann  
Suzanne & Michael Schnittman  
Robert Seidel  
Brian Shiffrin  
Dorothy Siegel  
Eleanor Siegfried  
Deborah Sigrist  
John R. Sisley  
Theodore Sizing  
Marva Smith  
Mary Monroe Smith  
Elaine Spaul  
Pamela Stiles  
Deborah Stinson & the Stinson Family  
Janet Straub  
Gary Studebaker  
Sydney Sutherland  
Ron Tabak  
Michael Tallon  
Jonathon Tetherly  
Vernon Thayer  
Edith Thoburn  
Miriam Thomas  
Jay Thompson  
Robert Thompson  
Larry Tift  
David Tirling  
Dianne Tramutola-Lawson  
Barb & John van Kerkhove  
Doris Van Vechten  
Paula Vargas  
Richard Vineski  
Muluka Waberi  
Kay Wallace  
Anne Thomson Waller  
Deborah Ward  
Lovely Warren  
Richard Watkins  
Ann Weintraub  
Winthrop Wetherbee  
T. Franklin Williams  
Gloria Wilner  
Lawrence Witmer  
Michael Wolford  
Rowena Zemel  
Clark Zimmerman, Jr.  
Leon Zoghlin

***Donors who gave items from a television to books to garden boxes to cups...and much more - Thank You (with apologies to those I am forgetting!)***

Margaret Corbin  
Jim Egan  
Joy Hofbauer  
Marjorie Hoffman  
Marci Muller  
Aaron Schaeffer  
Katherine Simmons

# Restructure the Temporary Release Program to Include Long-Term Inmates

(Editor's note: This document was prepared by inmates in the NY State system whose names have been withheld to preserve confidentiality. If you choose to circulate the petition on p. 11, first photocopy it, then complete and send to JPC for forwarding.)

## PURPOSE:

To revisit the Department of Correctional Services Policy and Procedure that was implemented during the term of our former Commissioner, which resulted in the end of the Temporary Release Program for long-term offenders within the State Department of Corrections, hereafter referred to as the Department or "DOCS", and to develop a sound and effective procedure that will invest in a realistic approach to a positive transition for those long-term offenders who have made a sincere effort to comply with the Department's Statutory Rehabilitative Agenda found in Article's 6, 23 and 23-a of Corrections Law, §136, §§750-755, and §§800-806; see also, Executive Law §259-i (2)[a-c].

## BACKGROUND:

During the Legislative Session of 1994, former Governor George Pataki signed an Executive Order taking effect immediately, thereby terminating violent-felony offenders from participating in the Department's Work Release Program.<sup>1</sup> As a result of this Order, all "long-term"<sup>2</sup> violent-felony offenders who positively participated in Temporary Release services were allowed to retain their status, with no future candidates being accepted.

Pataki's Executive mandate has been the subject of several litigations in both New York's Federal and State Courts', with each upholding his Executive power over the departmental branch of government. See, *Lee v. Governor of the State of New York*, 87 F.3d 55 (2<sup>nd</sup> Cir. 1996); see also, *Dorst v. Pataki* 90 N.Y.2d 696 (N.Y. 1997); and *Quartararo v. New York State Department of Correctional Services*, 222 A.D.2d 758 (3<sup>rd</sup> Dept 1996); also, *People v. Fornal*, 221 A.D.2d 361 (2<sup>nd</sup> Dept. 1995).

When former Governor Pataki implemented

this Executive Order violent crime in New York had become a germane topic among political circles, and remains the chief concern of Public Safety and Crime Victim subcommittees within New York's Legislature. There have been no legitimate statistics to lend credibility to former Governor Pataki's elimination of long-term offenders participating in the Temporary Release Program.<sup>3</sup> Our former governor's campaign agenda overrode the Department's objective in establishing on-the-job training for offenders who are in need of transitional services beyond the Department's basic vocational or industrial programs presently being provided.<sup>4</sup>

## PROPOSED CHANGE:

We propose that an extension be made to the review provision of Title 7 N.Y.C.R.R., Chapter XII, §1900.4, "Eligibility" [c](4)[i-iii], to include long-term offenders (men/women) who have undergone offense-related programming (therapeutic); i.e., ASAT, or ART, and have exhibited a continued pattern of positive custodial adjustment that should include academic, vocational or work experience, who are presently housed within the Department's Facilities that have "Outside Clearance," having positively retained this status a minimum of one year prior to submitting their application to participate in Temporary Release Services.

We further propose that the review process found in §1900.4(h)[1-2], "Verification," be extended to include this category of offenders by mandating that a psychological review be conducted to determine if there may be social problems that deter releasing the offender.

## PRESENT STUDY:

There has been an extensive research conducted by a Commission that was created by former Governor, Eliot Spitzer, identified as New York State's Commission on Sentencing Reform. The Commission has presented a Preliminary Proposal entitled, *The Future of Sentencing in New York State*. It has been documented that recidivism is reduced through an effective re-entry plan that combines law enforcement with social services agencies. In Part IV of the Report the Commission recommends that the Department be allowed to restore the Work Release Program.<sup>5</sup>

Recognizing that offenders face tremendous odds within the first 3 months of their release, the Department presently employed what is identified

as a step-down facility in Orleans Correctional Facility. This Unit combines Social Services with Community Outreach programs to insure that offenders soon to be released have the basic welfare needs in place to insure their transition from prison to the community is successful.

The Commission confers that these offenders' success should be used as a model to extend re-entry efforts such as redeploying the Work Release Program to include long-term offenders. Re-implementing this class of inmates to participate in Temporary Release Programs provides our State with an opportunity to observe and monitor inmates prior to their release on Parole, and prevents recidivism. Several important factors come into consideration here: housing, employment and faith-based community involvement in the lives of these men/women. By allowing them to seek and obtain work or education after being screened through a similar process that is in place, long-term offenders are given the opportunity to test their marketable skills, or participate in certificate programs that lead to on-the-job apprenticeship training. A further benefit of re-implementing these men/women to Temporary Release is the creation of Community-based Transitional Service Counselors working in conjunction with the Division of Parole and the Department of Corrections. At present these offenders are released without real ties to the community, leaving them to virtually sink or swim. The climate for ex-offenders is non-friendly. How these individuals adjust hinges upon the support of networks most of them have lost due to their extended periods of incarceration. In most cases prisoners serving more than ten years have either lost touch with their family, friends or the

community.

Through cooperative efforts between local precincts, Transitional Service Counselors and the Department's Counselors working in the field, public safety will be assured through controlled monitoring of the whereabouts and progress of these offenders. If there is a major concern, ankle bracelets monitoring movement can be implemented to insure the whereabouts of these men/women at all times. We have many resources through modern technology to insure that public safety is not compromised, and the welfare of all is protected.

## CONCLUSION

It is no longer feasible to incarcerate a rehabilitated person within a year or less of their parole eligibility under antiquated policy and procedures. Pending the outcome of the Commission's Final Report, serious consideration should be given to the truth in recidivism and re-entry efforts taking place. The Department has gone from using its Outside Clearance Program for short-term offenders to replacing them with long-term offenders caught in a web of politics. In light of more than 500 recently released long-term offenders over a one-year period, it remains a true precedence that less than 2 % have violated the terms of their release.

This progressive number should reflect why long-term offenders are considered mature, responsible, and ready to commit their lives to becoming, and then remaining law-abiding, community development minded people our State should continue to invest in, consistent with the rehabilitative mandate presently being promoted by our Department of Corrections.

<sup>1</sup> See Sessions Law of 1994 Chapter 60 Statute 42 Penal Law §70.02 subdivision (1), paragraphs [a] and [b]; implemented as the criteria for eliminating violent felons from work release eligibility. See, Corrections Law §851(2), effective January of 1995, per Executive Order 5.5.

<sup>2</sup> A "Long-Term" offender is a term that was created to identify men/women who has served at least ten years, or more of consecutive incarceration.

<sup>3</sup> The majority of convicted violent-felons who participated in the Temporary Release Program during Pataki's entry of once had served all, if not most of their minimum sentences. They had proven records of successfully gaining employment, or attending trade school that led to apprenticeships prior to their release upon parole. The Commissioner's office issued a chart indicating that the percent of violent offenders under custody in New York fell from 1983-2002 by 29% (75% in 1983 to 50% percent by the end of fiscal year 2002)| Nee. D.O.C.S. Today, Volume 12, No. 3, page 5.]

<sup>4</sup> The present time frame for an inmate's eligibility is twenty-four (24) months or less to their parole board review. Without on-the-job training, long-term offenders are plunged into a work force they are technologically or socially unequipped to meet, having served a decade or more of incarceration.

<sup>5</sup> The Commission suggest that after a careful review of the recently released long-term offenders has been conducted for recidivism, should the numbers be positive, the Legislature will be courted to expand the present criteria to include long-term offenders through a change to Corrections Law §851(2), or an Executive Order reversing the prior exclusion of this class of men/women for Temporary Release Services. (See, Proposal, Section IV Part A page 48 par. 1].



Judicial Process Commission  
285 Ormond Street  
Rochester, New York 14605  
585-325-7727  
[info@rocjpc.org](mailto:info@rocjpc.org)  
[www.rocjpc.org](http://www.rocjpc.org)

NON-PROFIT-ORGANIZATION  
US-POSTAGE  
PAID  
ROCHESTER, NY  
PERMIT No. 1501

**Address Service Requested**

Interested in learning about how to effectively  
help ex-offenders?

## JPC APPRENTICESHIP MENTOR TRAINING

**April 20 & 21**

Mon. and Tues. 5:00 to 9:00 PM,  
84 Scio Street

Hosted by Rochester Friends Meeting  
(Near the Eastman Theatre)

Training Topics:

- Local, State and Federal representatives discuss their agencies role in the criminal justice system. Project guidelines and boundaries
- Mentor reflections and requirements.
- Active listening skills and feedback.
- Health issues affecting those affected by the criminal justice
- Employment discrimination and welfare issues.

**Reservations required in advance by Friday, April 17, at noon. Call 325-7727 or email [info@rocjpc.org](mailto:info@rocjpc.org). Interested volunteers should have 2 hours a week to give, be willing to commit to 1 year of apprenticeship service, attend Monday Night Training Workshops and provide written information about the outcomes.**

## We asked and you provided.

- Special thanks to the 2 families that brought us bus passes, pens, pencils, notebooks, novels etc.
- A heavy duty shredder, paper cutter, rolling stand for a large screen TV.
- Copy paper, lined paper notebooks, stamp, coffee, creamer and sugar, teas.
- A driver to pick-up *Justicia* newsletters in Avon every 2 months.
- The Ormond Street Beautification Team needs organic compost and vegetable plants to fill 4 raised beds that will grow tomatoes, peppers, lettuce and beans this summer. We also need drought tolerant perennials - for the empty hillside next to the office.
- 7 giant flower pots are needed to brighten Ormond Street and flowers, herbs and veggies to go in them.
- Volunteers for one time or regular commitment to water or weed. Meetings on Fridays at noon starting this spring. A volunteer coordinator for this effort is needed.

Call Sue at 585-325-7727 for more info.